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OFFICE OF PETITIONS

In re Application of :
Peisker et al. :
Application No. 09/922,939 : **DECISION GRANTING**
Filed: August 7, 2001 : **PETITION**
Attorney Docket No. 1533.3150001/SRL/KYP :

This is a decision on the petition filed January 24, 2003, to accord the above-identified application a filing date of August 7, 2001.

On August 7, 2001, the application was filed.

On January 9, 2003, the Office of Initial Patent Examination mailed a Notice stating that drawings were not present and that a filing date had not been accorded and the filing date would be the date of receipt of drawings.

In response, the present petition was filed alleging that a drawing was deposited on August 7, 2001. In support, petitioner has submitted a postcard receipt which acknowledges receipt of "1 sheet of drawings (Figure 1)" on August 7, 2001.¹ Petitioner has also submitted a copy of the missing documentation- 1 sheet of drawing.

Upon review of the record, Figure 1, deposited on August 7, 2001, has not been located. However, the evidence is convincing that the application papers deposited on August 7, 2001 included Figure 1, and that Figure 1 was subsequently misplaced in the PTO. Therefore, the application is complete and entitled to a filing date of August 7, 2001.

In view of the above, the petition is **granted**. The copy of Figure 1 submitted with the petition will be used for examination purposes.

A refund of the petition fee will be scheduled.

The Notice mailed January 9, 2003, was sent in error and is hereby vacated.


Pursuant to 37 CFR 1.84(u): "Where only a single view is used in an application to illustrate the claimed invention, it must not be numbered and the abbreviation 'FIG.' must not appear." Therefore, applicants should file a preliminary amendment to delete the label "Figure 1" from the

¹ Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self addressed post card properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the post card in the outgoing mail. "A post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." M.P.E.P. § 503.

one (1) sheet of drawings, as well as any reference to "Figure 1" in the specification prior to the first action on the merits.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of August 7, 2001, using the application papers filed on August 7, 2001, and the copy of one sheet of drawings filed on January 24, 2003.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.



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